

Application No. 09/786,435
Filed: March 20, 2001
TC Art Unit: 1645
Confirmation No.: 1324

REMARKS

Claims 1, 5-8 and 11-18 are pending in the present application. The Examiner has rejected claims 1, 5-8 and 11-18. Applicant has amended claims 1, 5, 14, 15 and 17 herein. The amendments have support within the specification such that new matter has not been presented. Accordingly, claims 1, 5-8 and 11-18 are to be pending upon entry of the amendments herein.

Amendments to the claims should not be construed as acquiescence to the rejections by the Examiner and were provided solely to expedite the prosecution of the application. Applicant reserves the right to pursue the claims as originally filed in the present or a separate application(s).

Applicant also respectfully requests reconsideration and withdrawal of the rejections by the Examiner in view of the above amendments and the remarks herein.

Claim Rejections 35 U.S.C. § 112

The Examiner has rejected claims 1, 5-8 and 11-14 under 35 U.S.C. § 112 for indefiniteness. Applicant has amended claims 1, 5 and 14 such that the rejections by the Examiner should be withdrawn.

Claim Rejections 35 U.S.C. § 102

The Examiner has rejected claims 1 and 14-18 as anticipated by International Publication Nos. WO 93/19783 to Logan et al. and WO 95/10611 to Melton et al. The Examiner has maintained that Logan et al. disclose a method of preventing a central nervous system pathology by contacting tissue with an agent that inhibits the activity of TGF- β . The Examiner has also indicated that Logan

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et al. teach patients that have surgically induced brain lesions. The Examiner has contended that Melton et al. disclose a method of preventing degeneration of neuronal cells *in vivo*. The Examiner has also indicated that Melton teach antagonizing agents that inhibit the activity of TGF- β . Applicant respectfully responds to the rejections by the Examiner through amendments and remarks herein.

Applicant indicates that Logan et al. teach providing a subject having surgically induced brain lesions. Applicant has also amended the claimed method and pharmaceutical composition to require damaged neurons from a cerebral disorder that was not purposely induced. The amendments to the claimed method and pharmaceutical composition clearly distinguish claims 1, 14-15 and 18 from the surgically induced pathologies particularly disclosed in Logan et al. Thus, Applicant respectfully submits that the Logan et al. anticipation rejections by the Examiner should be withdrawn.

Applicant also contends that Melton et al. do not disclose inhibition of the biological activity of TGF- β as required by the claimed method and pharmaceutical composition. Melton et al. teach that neural induction is inhibited by activin or an interaction with the truncated activin receptor. Page 5 at line 19. This teaching within Melton et al. is distinguishable from the method and pharmaceutical composition claimed by Applicant. Thus, Applicant respectfully submits that the Melton et al. anticipation rejections of claims 1 and 14-18 should be withdrawn by the Examiner.

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Claim Rejections 35 U.S.C. § 103

The Examiner has rejected claims 1, 5-8 and 11-18 as obvious based on International Publication No. WO 93/19783 to Logan et al. in combination with several journal articles. The Examiner has stated that Logan et al. disclose a method of preventing a central nervous system pathology by contacting tissue with an agent that inhibits the activity of TGF- β . The patent laws have settled that to establish a *prima facie* basis for obviousness an Examiner must demonstrate that a reference(s) disclose each limitation of the claims under consideration. Applicant respectfully contends that Logan et al. in combination with the journal articles do not teach each of the limitations specifically required by claims 1, 5-8 and 11-18.

Applicant indicates that Logan et al. teach providing a subject having surgically induced brain lesions. Applicant has also amended the claimed method and pharmaceutical composition to require damaged neurons from a cerebral disorder that was not purposely induced. The amendments to the claimed method and pharmaceutical composition clearly distinguish claims 1, 5-8 and 11-18 from the surgically induced pathologies particularly disclosed by Logan et al. Thus, Applicant respectfully submits that the obviousness rejections by the Examiner should be withdrawn as the journal articles do not overcome the deficiencies identified within Logan et al.

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CONCLUSION

Based on amendments and remarks presented herein, reconsideration and withdrawal of the rejections by the Examiner and allowance of the application with the pending claims are respectfully requested.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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